

THE LAW OFFICES OF CHARLES D. NACHAND  
Charles D. Nachand (Bar No. 72068)  
Demetri Lahanas, (Bar No. 185583)  
Richard B. Hudson (Bar No. 140883)  
451 South Escondido Boulevard  
Escondido, California 92025  
(760) 741-2665 (Telephone)  
(760) 741-0396 (Facsimile)

Attorneys for Sherill Johnston

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

ACTION FORECLOSURE SERVICES, INC, )  
Plaintiff, )  
v. )  
UNITED STATES OF AMERICA, )  
Defendant. )

Case No. 3:08-CV-00455-W-BLM

**STIPULATION REGARDING LIEN  
PRIORITY**

The undersigned parties to the above-entitled action jointly submit this Stipulation and [Proposed] Order Regarding Lien Priority and Request for Dismissal of the Defendants who have never made an appearance in this action.

1. On December 4, 2007, Plaintiff Action Foreclosure Services, Inc. filed this action in the Superior Court for the State of California, San Diego County, stating that it held surplus funds amounting to \$76,142.61 from the sale of real property commonly known as Assessors Parcel Numbers 279-150-22 and 280-140-10, and asking the Court to determine the validity and priority of competing and adverse claims to those funds by the United States, Sherrill Johnston and the State of California Employment Development Department ("EDD"). As evidenced by the documents of record, Action Foreclosure Services Inc. provided notice to all interested parties of the deposit of funds, the date of hearing, and the Superior Court's requirement to file a response/claim no later than fifteen days prior to the March 21, 2008 hearing, located in the North County Branch of the Superior Court for San Diego County, State of

California.

2. The United States removed this action to the United States District Court for the Southern District of California on March 7, 2008. The United States and Sherrill Johnston were the only parties to appear and assert a claim in the District Court.

3. The United States and Sherrill Johnston agree and stipulate that the United States' interest in the surplus funds, by virtue of the notice of federal tax lien recorded on June 9, 2006, is senior to, and has priority over, the interests of Sherrill Johnston for the amount of \$25,380.87. Therefore, the undersigned parties agree that the surplus proceeds held by the County Treasurer should be distributed in such a way to satisfy in full the United States' interest under the notice of federal tax lien recorded on June 9, 2006, before any proceeds are distributed to Sherrill Johnston.

4. Pursuant to the Declaration of Charles D. Nachand, upon detailed review of the State Court file after the District Court's Early Evaluation Conference on May 5, 2008, no other person or party had appeared, made a claim, filed any paper or response in the State Court file, except the now discharged Plaintiff, respondent Sherrill Johnston, the United States, and the EDD.

5. Pursuant to the Disclaimer of Interest, the EDD has decided not to pursue its claim to the surplus funds, as it recognizes that the United States has a priority interest that will exhaust all of the funds that the EDD might have been entitled to.

6. Each party shall be liable for its own costs of litigation and attorneys' fees.

Respectfully submitted,

Dated: May 22, 2008

/s/ Lauren Castaldi  
LAUREN M. CASTALDI  
U.S. Department of Justice, Tax Division  
(202) 514-9668

Attorney for the United States

Dated: May 22, 2008

/s/ Charles D. Nachand  
Charles D. Nachand,  
The Law Offices of Charles D. Nachand  
(760) 741-2665

Attorney for Respondent Sherrill Johnston